

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

Department of Insurance and Financial Services,

Petitioner

v

Docket No. 21-003850

Case No. 20-1057-M

Shannon Montroy,

Respondent

For the Petitioner:

Gary Grant
DIFS Office of General Counsel
P.O. Box 30220
Lansing, MI 48909

For the Respondent:

Shannon Montroy
23103 Fountain Drive
Clinton Township, MI 48036

**Issued and entered
this 22nd day of September 2021
by Randall S. Gregg
Senior Deputy Director**

FINAL DECISION

I. Introduction

On May 26, 2021, Administrative Law Judge Stephen B. Goldstein issued a Proposal for Decision in the above-captioned matter. Judge Goldstein recommended that the Director issue a final decision consistent with the Findings of Facts and Conclusions of Law as outlined in the PFD. The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. In addition, neither party filed exceptions to the PFD. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. *Attorney General v. Public Service Comm'n*, 136 Mich App. 52 (1984); *see also* MCL 24.281. For these reasons, the PFD is adopted in full and are restated herein as follows:

II. Findings of Fact

1. At all relevant times, Respondent held a valid hospital indemnity insurance policy with American Family Life Assurance Company of Columbus (AFLAC).

2. Respondent filed claims with AFLAC against the policy seeking reimbursement for four (4) alleged medical appointments occurring from May 13, 2017 through August 28, 2017, as follows:

- a. May 13, 2017 appointment for Respondent at Beaumont Medical Hospital (BMH) located at 468 Cadieux Road, Grosse Pointe, Michigan 48230.
- b. May 29, 2017 appointment for JM at McLaren Macomb Hospital (MMH) located at 1000 Harrington Street, Mount Clemens, Michigan 48043.
- c. August 4, 2017 appointment for JM at MMH.
- d. August 28, 2017 appointment for Respondent at MMH.

3. AFLAC paid Respondent a total of \$1,845.00 in reimbursement for the claims listed above. However, after remitting the \$1,845.00 to Respondent, AFLAC became concerned because it appeared as if a reimbursement form submitted by Respondent had been altered to change the date of service. As a result, AFLAC contacted BMH. BMH could not verify the date of service set forth above. AFLAC next contacted MMH; MMH was likewise unable to verify the dates of service set forth above.

4. On or about July 17, 2018, AFLAC contacted Respondent and informed her of its inability to verify the dates of service. Respondent denied wrongdoing and stated that she would provide paperwork to AFLAC verifying the dates of service. To date, Respondent has failed to provide AFLAC with any evidence verifying the dates of service.

5. AFLAC later determined that Respondent was entitled to \$1,000.00 in benefits for a claim submitted for a July 26, 2018 treatment date. AFLAC retained the \$1,000.00 as an offset against the \$1,845.00 that was improperly paid to her as set forth above. Accordingly, AFLAC asserts that Respondent now owes \$845.00 in restitution.

III. Conclusions of Law

Respondent either knew or should have known that Section 4503(c) of the Code, MCL

500.4503(c), provides that:

A fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

(c) Presents or causes to be presented to or by any insurer, any oral or written statement including computer-generated information as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim.

Respondent has violated Section 4503(c) of the Code by submitting claims to an insurer for reimbursement for medical appointments that did not occur.

III. Applicable Penalties

Section 150(1)(a) of the Code, MCL 500.150, provides:

(1) Any person who violates any provision of this act for which a specific penalty is not provided under any other provision of this act or of other laws applicable to the violation must be afforded an opportunity for a hearing before the director under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the director finds that a violation has occurred, the director shall reduce the findings and decision to writing and issue and cause to be served on the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the director may order any of the following:

(a) Payment of a civil fine of not more than \$1,000.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this act, the director may order the payment of a civil fine of not more than \$5,000.00 for each violation. With respect to filings made under chapters 21, 22, 23, 24, and 26, "violation" means a filing not in compliance with those chapters and does not include an action with respect to an individual policy based on a noncomplying filing. An order of the director under this subdivision must not require the payment of civil fines exceeding \$50,000.00. A fine collected under this subdivision must be turned over to the state treasurer and credited to the general fund.

III. Order

Therefore, it is ORDERED that the Respondent shall:

1. Cease and desist from violating Section 4503(c) of the Michigan Insurance Code, and
2. Pay to American Family Life Assurance Company of Columbus (AFLAC) restitution of \$845.00.
3. Pay a civil penalty of \$4,000.00 (\$1,000.00 for each violation of MCL 500.4503(c).



Randall S. Gregg
Senior Deputy Director

IN THE MATTER OF:

Docket No.: 21-003850

**Department of Insurance and Financial
Services,
Petitioner**

Case No.: 20-1057-M

v

**Agency: Department of
Insurance and
Financial Services**

**Shannon Montroy,
Respondent**

Case Type: DIFS-Insurance

Filing Type: Sanction

**Issued and entered
this 26th day of May 2021
by: Stephen B. Goldstein
Administrative Law Judge**

PROPOSAL FOR DECISION

Background and Procedural History

This proceeding is held under the authority of the Michigan Insurance Code, 1956 PA 218, as amended, MCL 500.100 *et seq.* (Code), the Administrative Procedures Act, 1969 PA 306, MCL 24.201 *et seq.* (APA), and the Michigan Office of Administrative Hearings and Rules (MOAHR) hearing rules, Mich Admin Code, R 792.10101 *et seq.* (Hearing Rules).

On February 10, 2021, the Department of Insurance and Financial Services (Petitioner) issued a Complaint alleging violations by Shannon Montroy (Respondent) of Section 4503(c) of the Code, MCL 500.4503(c) and thus is subject to the sanctions set forth under Section 150 of the Code, MCL 500.150.

On February 22, 2021, this matter was referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On February 24, 2021, MOAHR issued a Notice of Hearing scheduling a telephone hearing for 9:00 a.m. on April 6, 2021.

The April 6, 2021, hearing commenced as scheduled. Petitioner was represented by Gary Grant, Attorney at Law. Respondent failed to appear. Petitioner moved for entry of a default against Respondent pursuant to Sections 72 and 78 of Michigan's Administrative Procedures Act, MCL 24.271 *et seq.* and Mich Admin Code, R 792.10134(1). After determining that Respondent was properly served with notice, the Petitioner was permitted to proceed in her absence.

Issue(s)

Has Respondent violated the Code, as alleged in Petitioner's February 10, 2021, Complaint?

Applicable Law

MCL 500.4503(c) provides in relevant part:

"Sec. 4503. A fraudulent insurance act includes, but is not limited to, acts or omissions committed by any persona who knowingly, and with an intent to injure, defraud, or deceive:

" . . . "

"(c). Presents or causes to be presented to or by any insurer, any oral or written statement, including computer-generated information as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim."

" . . . "

MCL 500.150 provides, in relevant part:

Sec. 150. (1) Any person who violates any provision of this act for which a specific penalty is not provided under any other provision of this act or of other laws applicable to the violation must be afforded an opportunity for a hearing before the director under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the director finds that a violation has occurred, the director shall reduce the findings and decision to writing and issue and cause to be served on the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the director may order any of the following:

(a) Payment of a civil fine of not more than \$1,000.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this act, the director may order the payment of a civil fine of not more than \$5,000.00 for each violation. With respect to filings made under chapters 21, 22, 23, 24, and 26, "violation" means a filing not in compliance with those chapters and does not include an action with respect to an individual policy based on a noncomplying filing. An order of the director under this subdivision must not require the payment of civil fines exceeding \$50,000.00. A fine collected under this subdivision must be turned over to the state treasurer and credited to the general fund.

(b) The suspension, limitation, or revocation of the person's license or certificate of authority.

(2) After notice and opportunity for hearing, the director may by order reopen and alter, modify, or set aside, in whole or in part, an order issued under this section if, in the director's opinion, conditions of fact or law have changed to require that action or the public interest requires that action.

(3) If a person knowingly violates a cease and desist order under this section and has been given notice and an opportunity for a hearing held under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may order a civil fine of \$20,000.00 for each violation, or a suspension, limitation, or revocation of the person's license, or both. A fine collected under this subsection must be turned over to the state treasurer and credited to the general fund.

(4) The director may apply to the court of claims for an order of the court enjoining a violation of this act.

Findings of Fact

Based on a preponderance of the evidence, the Tribunal finds, as material fact:

1. At all relevant times, Respondent held a valid hospital indemnity insurance policy with American Family Life Assurance Company of Columbus (AFLAC).
2. Respondent filed claims with AFLAC against the policy seeking reimbursement for four (4) alleged medical appointments occurring from May 13, 2017 through August 28, 2017, as follows:
 - a. May 13, 2017 appointment for Respondent at Beaumont Medical Hospital (BMH) located at 468 Cadieux Road, Grosse Pointe, Michigan 48230.
 - b. May 29, 2017 appointment for JM at McLaren Macomb Hospital (MMH) located at 1000 Harrington Street, Mount Clemens, Michigan 48043.
 - c. August 4, 2017 appointment for JM at MMH.
 - d. August 28, 2017 appointment for Respondent at MMH.

STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

3. AFLAC paid Respondent a total of \$1,845.00 in reimbursement for the claims listed above. However, after remitting the \$1,845.00 to Respondent, AFLAC became concerned because it appeared as if a reimbursement form submitted by Respondent had been altered to change the date of service. As a result, AFLAC contacted BMH. BMH could not verify the date of service set forth above. AFLAC next contacted MMH; MMH was likewise unable to verify the dates of service set forth above.
4. On or about July 17, 2018, AFLAC contacted Respondent and informed her of its inability to verify the dates of service. Respondent denied wrongdoing and stated that she would provide paperwork to AFLAC verifying the dates of service. To date, Respondent has failed to provide AFLAC with any evidence verifying the dates of service.
5. AFLAC later determined that Respondent was entitled to \$1,000.00 in benefits for a claim submitted for a July 26, 2018 treatment date. AFLAC retained the \$1,000.00 as an offset against the \$1,845.00 that was improperly paid to her as set forth above. Accordingly, AFLAC asserts that Respondent now owes \$845.00 in restitution.
6. Respondent either knew or should have known that Section 4503(c) of the Code provides that:

A fraudulent insurance act includes acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

Presents or causes to be presented to or by any insurer, any oral or written statement including computer-generated information as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim.
7. Respondent has violated Section 4503(c) of the Code by submitting claims to an insurer for reimbursement for medical appointments that did not occur.
8. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order that Respondent pay a civil fine, provide appropriate restitution, and cease and desist from violating the Code.

Analysis and Conclusions of Law

The principles that govern judicial proceedings also apply to administrative hearings. The burden of proof is upon Petitioner to prove by a preponderance of the evidence that grounds exist for the imposition of sanctions upon the Respondent.

Under § 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v Lansing School District, 428 Mich. 248 (1987).

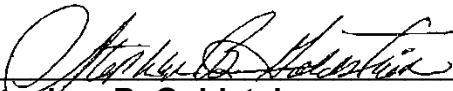
The preponderance of evidence establishes that Respondent violated MCL 500.4503(c) and is therefore subject to sanctions, including fines and restitution, under MCL 500.150.

PROPOSED DECISION

Based on the above Findings of Fact and Conclusions of Law, the Tribunal proposes that the Director or the Director's designee issue a Final Order finding Respondent in violation of MCL 500.4503(c).

EXCEPTIONS

Pursuant to MCL 24.281, 2015 AACS R 792.10132, and 2015 AACS R 792.10608, a party may file exceptions to this proposal for decision within 21 days after the proposal for decision is issued. An opposing party may file a response to exceptions within 14 days after exceptions are filed. File exceptions and responses with Randie Swinson (SwinsonR@michigan.gov), Department of Insurance and Financial Services, Office of General Counsel, PO Box 30220, Lansing, Michigan, 48909, and send a copy to the other parties.



Stephen B. Goldstein
Administrative Law Judge

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

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Case No. 20-1057-M

Shannon Montroy

Respondent

_____ /

CERTIFICATE OF SERVICE

I certify that on September ____, 2021 I served a copy of the executed FINAL DECISION upon the following by depositing same in a United States Postal Depository in the City of Lansing, Michigan, enclosed in an envelope, bearing postage fully prepaid, and plainly addressed as follows:

Via First Class Mail

Shannon Montroy
23103 Fountain Drive
Clinton Township, MI 48036

Via Electronic Mail

Gary Grant
DIFS Office of General Counsel
P.O. Box 30220
Lansing, MI 48909
(grantg1@michigan.gov)

Randie Swinson
Department of Insurance and Financial Services
530 W Allegan Street
7th Floor
Lansing, MI 48933
(swinsonr@michigan.gov)

Randie Swinson, Hearings Coordinator
Office of General Counsel